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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/710,061	11/10/2000	Douglas N. Modlin	LJL 348	4099
759	90 06/12/2003			
Kolisch Hartwell Dickinson McCormack & Heuser Suite 200 520 S W Yamhill Street			EXAMINER	
			FRECH, KARL D	
Portland, OR 9	7/204		ART UNIT	PAPER NUMBER
			2876	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner							
## Examiner Art Unit Kard D Froch 2876 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address → Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ③ MONTH(S) FROM THE MAILING DATE of THIS COMMUNICATION. Extensions of them may be available under the provisions of 37 CPR 1.35(b), in no event, however, may a reply be threally life of the provision of 37 CPR 1.35(b), in no event, however, may a reply be threally life of the provision of 37 CPR 1.35(b), in no event, however, may a reply be threally life of the provision of 18 CPR 1.35(b), in no event, however, may a reply be threally life of the provision of 18 CPR 1.35(b), in no event, however, may a reply be threally life of this communication of the control of the control of this communication of the control of this communication. Provided the filter later them three medits daile of this communication, even if three free of this communication. Provided the filter later three three three medits daile of this communication. Provided the filter later three three three medits daile of this communication. Provided the filter later three three three three three medits called this communication. Provided three th	, , , ,	Application No.	Applicant(s)				
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- 1. Applicant's response filed 1/22/03 has been entered as paper number 6. No amendment has been made.
- 2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in-
- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).
- 3. Claims 1-4,6-26 rejected under 35 U.S.C. 102(e) as being anticipated by Ito et al 5,760,900.

Ito discloses a multi-mode optical detector which serially detects optical radiation of different wavelengths, the detectors detect light which is scattered or fluorescent (col 5 lines 30 - column 6 line 37, column 8 line 1+).

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ito et al 5,760,900.

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Ito anticipates the invention as seen above. Ito claims serial (sequential) detection, not simultaneous detection as claimed in claim 5. However, as there are a plurality of detectors provided by Ito for the multiple wavelengths (modes) of Ito, and since there is no criticality disclosed or claimed regarding the sequential or simultaneous detection of the multiple modes, this simultaneous detection is a matter of design choice. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to simultaneously detect as currently claimed in order to hasten operation of the system.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl Frech whose telephone number is (703) 305-3491. The examiner's supervisor is Michael Lee whose telephone number is (703)305-3503. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center receptionist whose telephone number is (703)308-0956. The Tech Center fax number is (703) 308-7722.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [karl.frech@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Karl D. Frech

Primary Examiner, AU 2876

June 09, 2003